

I6Q7ULIP

1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

3 UNITED STATES OF AMERICA,

4 v.

17 Cr. 641 (KMW)

5 JUXHIN ULI,

6 Defendant.

7 -----x  
New York, N.Y.

8 June 26, 2018

9 10:45 a.m.

10 Before:

11 HON. KEVIN NATHANIEL FOX

Magistrate Judge

12  
13 APPEARANCES

14 GEOFFREY S. BERMAN

United States Attorney for the  
Southern District of New York

15 BY: SARAH KRISOFF

16 Assistant United States Attorney

17 DAVID RUHNKE

Attorney for Defendant

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1 (Case called)

2 (In open court)

3 MS. KRISOFF: Good morning, your Honor. Sarah  
4 Krissoff for the government.

5 THE COURT: Good morning.

6 MR. RUHNKE: Good morning, your Honor. David Ruhnke  
7 appearing for Juxhin Uli.

8 THE COURT: Good morning.

9 Is there an application on behalf of the defendant?

10 MR. RUHNKE: Yes, your Honor. This has been referred  
11 to your Honor by Judge Wood. The application is to withdraw a  
12 previously entered not guilty plea to Count One of the  
13 indictment and enter a plea of guilty pursuant to a plea  
14 agreement with the government.

15 THE COURT: Mr. Uli, I have before me the indictment  
16 17 Crim. 641, a one count indictment charging a violation of  
17 Title 21 United States Code, Section 846, which makes it an  
18 offense for a person to conspire with others to violate the  
19 laws of the United States with respect to controlled  
20 substances.

21 In connection with this morning's proceeding, it's my  
22 understanding that you are tendering a plea to an offense that  
23 is a lesser included offense than the one that is recited at  
24 Count One of the indictment.

25 MR. RUHNKE: That is correct, your Honor.

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1           THE COURT: You have a right to have this morning's  
2 proceeding presided over by a district judge. You may, if you  
3 wish, consent to have a magistrate judge preside at this  
4 morning's proceeding. In that connection I have before me a  
5 document which is labeled Consent to Proceed Before a United  
6 States Magistrate Judge on a Felony Plea Allocution.

7           Please swear the defendant.

8           (Defendant sworn)

9           THE COURT: Mr. Uli, I want to show you the consent  
10 form of which I was speaking. Do you recognize the document.

11          THE DEFENDANT: Yes, sir.

12          THE COURT: Did you have an opportunity to review it  
13 with your attorney?

14          THE DEFENDANT: Yes.

15          THE COURT: Is there anything contained in the consent  
16 form you do not understand?

17          THE DEFENDANT: No, there isn't.

18          THE COURT: Do you acknowledge that the consent form  
19 explains in greater detail what I mentioned to you a moment ago  
20 about your right to have this morning's proceeding presided  
21 over by a district judge and, further, that by signing the  
22 document you are agreeing that a magistrate judge may preside  
23 over this morning's proceeding?

24          THE DEFENDANT: Yes, sir.

25          THE COURT: Is your true signature on the consent

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1 form?

2 THE DEFENDANT: Yes, it is.

3 THE COURT: Did anyone force you to sign the document?

4 THE DEFENDANT: No, sir.

5 THE COURT: Let me turn to your Honor turn my  
6 attention to your counsel. Is your signature also on conform?

7 MR. RUHNKE: I reviewed it with my client, and I  
8 signed it as well. I have no reason to think it's anything but  
9 completely voluntary.

10 THE COURT: Thank you. I'm going to sign the document  
11 also, and then we shall continue.

12 Mr. Uli, state your full name, please.

13 THE DEFENDANT: Juxhin Uli.

14 THE COURT: In the last 24 hours, have you consumed  
15 any medicine, alcohol or drugs that would affect your ability  
16 to understand what we're doing here today?

17 THE DEFENDANT: No, sir.

18 THE COURT: Are you under the care of a physician or  
19 psychiatrist for any condition?

20 THE DEFENDANT: No, sir.

21 THE COURT: Have you ever been treated for alcoholism  
22 or drug addiction?

23 THE DEFENDANT: No, sir.

24 THE COURT: Do you feel all right today?

25 THE DEFENDANT: Yes, sir.

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1 THE COURT: What is the extent of your education, sir?

2 THE DEFENDANT: Bachelor of Business.

3 THE COURT: Have you received a copy of indictment 17  
4 Crim. 641?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Do you understand the nature of the lesser  
7 included offense to which you are tendering a plea of guilty?

8 THE DEFENDANT: I do.

9 THE COURT: Do you wish to have the indictment read to  
10 you, including that portion of the indictment which would  
11 encompass the lesser included offense?

12 THE DEFENDANT: No, sir.

13 THE COURT: Have you had sufficient opportunity to  
14 speak with your attorney about the charge to which you are  
15 tendering a plea of guilty?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Are you satisfied with the assistance that  
18 your attorney has rendered to you in connection with this  
19 matter?

20 THE DEFENDANT: Very much.

21 THE COURT: Are you ready to plead to Count One of the  
22 indictment, that is, the lesser included offense in Count One  
23 of the indictment, which is a charge that you conspired to  
24 distribute and possess with intent to distribute 500 grams and  
25 more of cocaine in violation of Title 21 United States Code,

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1 Sections 846 and 841(b)(1)(B)?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: What is your plea, sir, to the lesser  
4 included offense? Guilty or not guilty?

5 THE DEFENDANT: Guilty.

6 THE COURT: If you are not a United States citizen,  
7 your plea of guilty to the lesser included offense may affect  
8 adversely your ability to remain within the United States, to  
9 become a United States citizen, or to be admitted into the  
10 United States. Do you understand, sir?

11 THE DEFENDANT: Yes, sir, I'm a citizen.

12 THE COURT: I have to determine whether your plea of  
13 guilty to the lesser included offense is being made voluntarily  
14 and whether you understand fully the nature of the charge to  
15 which you're pleading and the possible consequences of your  
16 plea, so I shall be asking you additional questions.

17 Again, I want to ensure that you understand the nature  
18 of the charge to which you are pleading. As I indicated, the  
19 offense to which you are pleading is a lesser included offense  
20 than the offense recited at Count One of indictment 17 Crim.  
21 641. The lesser included offense to which you are tendering a  
22 plea of guilty is to conspire and to distribute, and possess  
23 with intent to distribute, 500 grams and more of cocaine in  
24 violation of Title 21 United States Code, Sections 846 and 841  
25 (b)(1)(B).

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1           The law provides as a maximum penalty for the lesser  
2 included offense to which you are tendering a plea of guilty  
3 the following: A maximum term of 40 years' imprisonment; a  
4 mandatory minimum term of five years' imprisonment; a maximum  
5 term of lifetime supervised release; a mandatory minimum term  
6 of four years' supervised release; a maximum fine pursuant to  
7 Title 21 United States Code, Section 841 (b)(1)(B) and Title 18  
8 United States Code, Section 3571, of the greatest of \$5  
9 million, twice the gross pecuniary gain derived from the  
10 offense, or twice the gross pecuniary loss to persons other  
11 than yourself resulting from the offense; and a \$100 mandatory  
12 special assessment. You are also subject to an order of  
13 restitution.

14           If you are sentenced to a term of supervised release  
15 and violate the terms and conditions of that supervised release  
16 such that it is revoked, you expose yourself to serving in  
17 prison all or part of the term of supervised release authorized  
18 by statute for the offense that resulted in such term of  
19 supervised release, without credit for time previously served  
20 on post-release supervision.

21           Sir, do you understand the nature of the lesser  
22 included offense, that is, the lesser included offense to the  
23 offense recited at Count One of indictment 17 Crim. 641 to  
24 which you are tendering a plea of guilty?

25           THE DEFENDANT: Yes, sir, I do.

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1           THE COURT: And do you also understand the range of  
2 penalties, including the maximum sentence to which you are  
3 potentially exposing yourself by your plea?

4           THE DEFENDANT: Yes, sir, I do.

5           THE COURT: The offense to which you are tendering a  
6 plea of guilty is a felony offense. As a consequence of  
7 pleading guilty to a felony offense, you may be giving up  
8 certain valuable civil rights that you possess. Among them are  
9 the following: The right to vote, the right to hold public  
10 office, the right to serve on a jury, the right to possess any  
11 type of firearm, including rifles and shotguns, the right to be  
12 considered for certain types of employment, and the right to  
13 possess or obtain certain professional licenses. Do you  
14 understand, sir?

15          THE DEFENDANT: I do, sir.

16          THE COURT: In addition, because the offense to which  
17 you are tendering a plea of guilty involves controlled  
18 substances, pursuant to Title 21 United States Code, Section  
19 862, your plea of guilty may result in the loss of certain  
20 benefits to which you might otherwise be entitled. Among those  
21 benefits are the following: Social Security, food stamp  
22 benefits, education loans or grants and public housing or  
23 housing subsidies. Do you understand, sir?

24          THE DEFENDANT: I do.

25          THE COURT: Do you understand that you have a right to



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1 plead not guilty and to persist in that plea?

2 THE DEFENDANT: I do.

3 THE COURT: Do you understand that you have the right  
4 to have a jury trial on the charge to which you are tendering a  
5 plea of guilty?

6 THE DEFENDANT: I do.

7 THE COURT: Do you also understand that if you plead  
8 not guilty and go to trial, the government would have the  
9 burden of establishing your guilt beyond a reasonable doubt?

10 THE DEFENDANT: I do.

11 THE COURT: Do you understand that at a trial you  
12 would be presumed innocent until the government proved your  
13 guilt beyond a reasonable doubt?

14 THE DEFENDANT: I do.

15 THE COURT: Do you understand that at such a trial,  
16 and at every other stage of the proceeding, you would have the  
17 right to be represented by an attorney and, if necessary, the  
18 court would appoint an attorney to represent you?

19 THE DEFENDANT: I do.

20 THE COURT: Do you understand that at a trial you  
21 would have the right to testify, to confront and question any  
22 witnesses who might testify against you, and the right not to  
23 be forced to incriminate yourself. That is, you do not have to  
24 be a witness against yourself.?

25 THE DEFENDANT: Yes, sir.

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1           THE COURT: Do you understand that at a trial you  
2 would be entitled to present evidence, to call witnesses to  
3 testify, and to compel the attendance of witnesses?

4           THE DEFENDANT: Yes, sir.

5           THE COURT: Do you understand that if you plead  
6 guilty, there will be no trial of any kind, so that you give up  
7 your trial rights, and the only remaining step will be for the  
8 assigned district judge to sentence you?

9           THE DEFENDANT: I do.

10          THE COURT: Sir, are you certain that you understand  
11 the nature of the lesser included offense to which you are  
12 pleading guilty?

13          THE DEFENDANT: Yes, sir, I do.

14          THE COURT: And are you certain that you understand  
15 the range of penalties, including the maximum sentence to which  
16 you are potentially subjecting yourself by your plea?

17          THE DEFENDANT: Yes, sir.

18          THE COURT: Do you understand that the sentencing  
19 judge may be obligated to impose a special assessment on you?

20          THE DEFENDANT: Yes, sir.

21          THE COURT: Have you and your attorney talked about  
22 how the Sentencing Commission guidelines -- which are advisory  
23 only -- might inform the sentence to be imposed upon you?

24          THE DEFENDANT: Yes, we have.

25          THE COURT: Do you understand that in determining your

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1 sentence, the sentencing judge is obligated to calculate the  
2 applicable sentencing guidelines range and possible departures  
3 under the sentencing guidelines?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: Do you understand that in addition to  
6 considering the factors set forth in the Sentencing Commission  
7 guidelines, the sentencing judge will also consider factors  
8 that are found at 18 U.S.C., Section 3553 in determining what  
9 the appropriate sentence might be for you?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: Do you understand that parole has been  
12 abolished, and if you are sentenced to prison, you will not be  
13 released on parole?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: Do you understand that the answers you  
16 give to me today under oath may in the future be used against  
17 you in a prosecution for perjury or false statement if you do  
18 not tell the truth to the court?

19 THE DEFENDANT: I do, sir.

20 THE COURT: What are the elements of the lesser  
21 included offense to which Mr. Uli is tendering a plea of  
22 guilty?

23 MS. KRISOFF: The elements are as follows: First,  
24 the existence of a conspiracy charged in the indictment, in  
25 other words, that there was in fact an agreement or

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1 understanding to violate the provisions of the law that make it  
2 illegal to distribute narcotics or to possess with intent to  
3 distribute them; second, that the defendant knowingly became a  
4 member of the conspiracy, that is, he knowingly associated  
5 himself with the conspiracy and participated in a conspiracy to  
6 distribute or possess with the intent to distribute  
7 narcotics -- here 500 grams and more of cocaine.

8 THE COURT: Thank you.

9 Mr. Uli, having heard the elements of the offense to  
10 which you are tendering a plea of guilty, is it still your  
11 desire to tender a plea of guilty.

12 THE DEFENDANT: Yes, sir.

13 THE COURT: In addition to the offense that is recited  
14 in the indictment, the indictment also contains a forfeiture  
15 allegation through which the government has indicated it will  
16 seek to recoup from you the proceeds of illegal activity  
17 described in the indictment. Are you aware that the indictment  
18 contains a forfeiture allegation?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: Sir, have any threats been made to you by  
21 anyone to influence you to plead guilty?

22 THE DEFENDANT: No, sir.

23 THE COURT: Have any promises been made to you  
24 concerning the sentencing you will receive?

25 THE DEFENDANT: No, sir.

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1           THE COURT: I understand that you and your attorney  
2 and representatives of the government have reached certain  
3 agreements and understandings in connection with your tender of  
4 your plea of guilty, and those agreements and understandings  
5 have been reduced to a writing, specifically a letter dated  
6 June 11, 2018, addressed to Dave Ruhnke your attorney. I have  
7 a copy of that document before me which I shall show you now.  
8 Do you recognize the document, sir?

9           THE DEFENDANT: Yes, sir, we have it right here.

10          THE COURT: Did you have an opportunity to review the  
11 document with your attorney?

12          THE DEFENDANT: Yes, sir.

13          THE COURT: Is there anything contained in the June  
14 11, 2018 writing that you do not understand?

15          THE DEFENDANT: No, sir.

16          THE COURT: Among other things there is text in the  
17 June 11, 2018 writing through which you admit the forfeiture  
18 allegation that I drew to your attention as being part of the  
19 indictment. Are you aware that the June 11, 2018 writing has  
20 such text?

21          THE DEFENDANT: Yes, sir.

22          THE COURT: The June 11, 2018 writing also contains an  
23 analysis of how the Sentencing Commission guidelines might  
24 apply to your case. Are you aware of that, sir?

25          THE DEFENDANT: Yes, sir.

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1           THE COURT: Do you understand that notwithstanding the  
2 analysis of the guidelines set forth in the June 11, 2018  
3 writing, the impact, if any, that the Sentencing Commission  
4 guidelines may have on the sentence to be imposed upon you is  
5 left solely to the discretion of the sentencing judge?

6           THE DEFENDANT: Yes, sir.

7           THE COURT: There is also text in the June 11, 2018  
8 writing that constricts your ability to appeal from or  
9 collaterally attack the judgment of conviction or sentence that  
10 might be imposed upon you. Are you aware of that, sir?

11          THE DEFENDANT: Yes, sir.

12          THE COURT: There is also text in that same writing  
13 that constricts your ability to seek a sentence modification  
14 pursuant to Title 18 United States Code, Section 3582(c). Are  
15 you aware of that, sir?

16          THE DEFENDANT: Yes, sir.

17          THE COURT: I want to show you the last page of the  
18 June 11, 2018 writing about which we have been speaking. Is  
19 your true signature on that page, sir?

20          THE DEFENDANT: Yes, sir, it is.

21          THE COURT: Sir, did anyone force you to sign the  
22 document?

23          THE DEFENDANT: No, sir.

24          THE COURT: Let me turn my attention to your counsel  
25 again. Is your signature also on the last page of the

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1 document.

2 MR. RUHNKE: Yes, sir.

3 THE COURT: Did you also sign, Mr. Ruhnke?

4 MR. RUHNKE: I did, sign.

5 THE COURT: Very well. And did representatives from  
6 the government also sign the last page of the document?

7 MS. KRISOFF: That's correct, your Honor.

8 THE COURT: Mr. Uli, other than the agreements and  
9 understandings that you and your attorney and representatives  
10 of the government have made and reached that are outlined in  
11 the June 11, 2018 writing about which we have been speaking,  
12 have any other agreements or understandings been made or  
13 reached with you in connection with your tender of a plea of  
14 guilty today?

15 THE DEFENDANT: No, sir.

16 THE COURT: Sir, is your plea being made voluntarily,  
17 that is, of your own free will?

18 THE DEFENDANT: Yes, it is.

19 THE COURT: Did you commit the lesser included offense  
20 to which you have tendered a plea of guilty?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Would you tell me in your own words what  
23 it is that you did that makes you believe yourself guilty of  
24 the lesser included offense to which you tendered a plea of  
25 guilty earlier.

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1           THE DEFENDANT: During the period charged in the  
2 indictment, February 2017 through including October 2017, I  
3 agreed with other people to distribute, and possess with intent  
4 to distribute, 500 grams or more of controlled substance,  
5 cocaine. I knew what I was doing was illegal, and I was  
6 violating the law, and I am pleading guilty because I am  
7 guilty.

8           THE COURT: Where was it that you had this agreement  
9 with others to distribute 500 grams of cocaine as you described  
10 a moment ago?

11          THE DEFENDANT: In Bronx and Westchester County, sir.

12          THE COURT: Are there any questions the government  
13 would have me put to the defendant?

14          MS. KRISOFF: Nothing else, your Honor.

15          THE COURT: Mr. Ruhnke, are you aware of any reason  
16 why your client should not plead guilty to the lesser included  
17 offense?

18          MR. RUHNKE: No, sir, I am not.

19          THE COURT: Is the government aware of any reason why  
20 the defendant should not plead guilty to the lesser included  
21 offense.

22          MS. KRISOFF: No, your Honor.

23          THE COURT: If the matter were to proceed to trial,  
24 what evidence would the government offer in support of the  
25 charge to which the defendant is pleading guilty?



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1 MS. KRISOFF: Your Honor, the government would prove  
2 that the defendant had participated in a conspiracy to  
3 distribute and possess with intent to distribute 500 grams and  
4 more of cocaine for the time period set forth in the  
5 indictment. The government would prove this through witness  
6 testimony, law enforcement witnesses, physical evidence,  
7 documentary evidence among other evidence.

8 THE COURT: Can you tell me in a general way what the  
9 witness testimony would be that you made reference to a moment  
10 ago.

11 MS. KRISOFF: Your Honor, I know that we would -- I  
12 am standing in for Mr. Skinner, so I am not familiar with the  
13 details of this matter. I can speak with Mr. Ruhnke and then  
14 --

15 MR. RUHNKE: I can fill the Court in, if I may.

16 THE COURT: Yes, sir.

17 MR. RUHNKE: Among other evidence, there would be  
18 intercepted tape recorded conversations of Mr. Uli discussing  
19 with other members of the conspiracy the distribution of  
20 cocaine. There was agent surveillance of actual delivery of  
21 quantities of cocaine. And again based on my review of the  
22 discovery, I do not believe the United States would have any  
23 difficulty in establishing the elements of the offense to which  
24 Mr. Uli is entering a guilty plea today, your Honor.

25 THE COURT: Thank you.

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1 I'm satisfied that Mr. Uli understands the nature of  
2 the lesser included offense to which he has tendered a plea of  
3 guilty, and I am satisfied that he understands the consequences  
4 of the plea of guilty. I am satisfied that the plea is being  
5 made voluntarily and knowingly and that there is a factual  
6 basis for a plea. So, I shall report and recommend to the  
7 assigned district judge that the plea be accepted.

8 I'm going to fix a date for sentence, and I direct the  
9 parties to contact the assigned district judge to determine  
10 whether that date is convenient for a sentencing proceeding.

11 October 26, 2018 will be the sentence date.

12 MR. RUHNKE: Sorry. 26th or 25th?

13 THE COURT: October 26, 2018. Again, the parties  
14 should contact the assigned district judge to determine whether  
15 that date is convenient, and also to fix a time certain on that  
16 date for a sentencing proceeding.

17 MR. RUHNKE: Yes, sir.

18 THE COURT: I shall direct that a presentence report  
19 be prepared prior to the date of sentence. In connection with  
20 the preparation of that report, the government should submit  
21 its case summary materials to the probation office not later  
22 than 14 days from today. The defendant and his counsel should  
23 arrange for an interview with the probation office not later  
24 than 14 days from today. I shall direct the government to  
25 obtain a transcript of the minutes generated during this

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1 proceeding and present same to the assigned district judge  
2 before the date of sentence.

3 Is there any requests with respect to bail?

4 MR. RUHNKE: Yes, sir. I am just having a little  
5 trouble hearing you this morning, your Honor.

6 THE COURT: I am sorry. I will speak closer to the  
7 microphone. I'm struggling with my voice today. Is there any  
8 request with respect to bail?

9 MR. RUHNKE: No, sir.

10 THE COURT: Is there anything else that we need to  
11 address this morning?

12 MR. RUHNKE: Just that bail be continued, but nothing  
13 beyond that and nothing further today.

14 THE COURT: With respect to the application that bail  
15 be continued, what is the government's position on that  
16 application?

17 MS. KRISOFF: We're fine with that, your Honor.

18 THE COURT: The application is granted.

19 Anything else from either party?

20 MR. RUHNKE: Not from the defense, your Honor. Thank  
21 you.

22 MS. KRISOFF: Nothing else from the government, your  
23 Honor.

24 THE COURT: Thank you. Good day.

25 (Adjourned)